

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

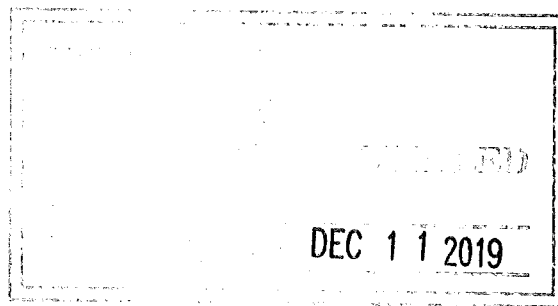
Alex Rodriguez,

Petitioner,

—v—

United States of America,

Respondent.



12-cr-506 (AJN)
16-cv-3955 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

On June 29, 2012, the Government charged Alex Rodriguez with a two-count indictment. Dkt. No. 9. Count One charged him with conspiracy to commit Hobbs Act robbery, in violation of 18 U.S.C. § 1951. Count Two charged him with possession of a firearm in relation to a robbery conspiracy, in violation of 18 U.S.C. § 924(c). On February 4, 2013, Rodriguez pleaded guilty to both counts. On July 1, 2013, the Court sentenced Rodriguez 33-months imprisonment for Count One, 60-months imprisonment for Count Two, to be served consecutively, and three years of supervised release on each count, to run concurrently.

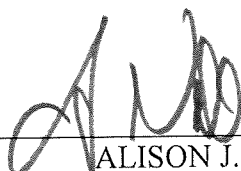
On May 24, 2016, Rodriguez filed a petition to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255. Dkt. No. 76. That petition was stayed pending the Supreme Court's resolution of *United States v. Davis*, 139 S. Ct. 2319 (2019). Rodriguez's conviction on Count Two can no longer stand after *Davis*, because conspiracy to commit a Hobbs Act robbery qualifies as a "crime of violence" only under the now-stricken residual clause of 18 U.S.C. § 924(c)(3). *Davis*, 139 S. Ct. at 2336.

As noted at the December 9, 2019 resentencing in this matter, Rodriguez's petition for a writ of habeas corpus is therefore GRANTED and his conviction on Count Two is VACATED. The special assessment imposed on Count Two under 18 U.S.C. § 3013 is also VACATED. The

Court resentenced Rodriguez on Count 1 to time served and twelve months of supervised release, beginning from the date of the resentencing, December 9, 2019.

SO ORDERED.

Dated: December 10, 2019
New York, New York



ALISON J. NATHAN
United States District Judge